IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.11.2006

CORM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
and
THE HON'BLE MR. JUSTICE S. TAMILVANAN

Writ Petition No.13272 of 2004
and WPMP.No.15536 of 2004

P.Raghunandan .. Petitioner

Vs.

1. The Member Secretary
   Chennai Metropolitan Development
   Authority,
   Thalamuthu Natarajan Building,
   Egmore, Chennai-600 008.

2. The Commissioner,
   Corporation of Chennai,
   Rippon Buildings,
   Chennai 600 003. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records relating to the impugned demolition notice issued by the first respondent in his letter No.ESI/31623/2003 dated 07.04.2004, the quash the same and to forbear the respondents from taking any demolition proceedings whatsoever against the construction put up by the petitioner in the property at No.6 (Old No.31), Deivasigamani Street, Royapettah, Chennai 14.

For petitioner : Mr. S.J.Jagadev

For respondents : Mr.J.Ravindran for R1
Mr.A.Mohammed Gouse for R2

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

Aggrieved by the demolition notice issued by the first respondent in his letter dated 07.04.2004, the petitioner has filed the above writ petition to quash the same and to forbear the respondents from taking any demolition proceedings against the construction put up by him in the property at No.6 (Old No.31), Deivasigamani Street, Royapettah, Chennai 14.

2. In the course of argument, the learned counsel appearing for the petitioner submitted that after receipt of the show cause notice dated 07/04/2004 to the effect that certain deviations are found in the construction with reference to the sanctioned plan and followed by demolition notice, the petitioner submitted a request to the first respondent – CMDA to issue revised plan, which was refused by the said authority by order dated 17.11.2004. It is also stated that against the said order of the CMDA, the petitioner preferred an appeal dated 15.12.2004 before the Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai 9. It is further stated that the said appeal is still pending. In fact it is brought to our notice that the Government have sent a communication dated 28.09.2006, requiring further information sought for in their letter dated 04.04.2005. It is explained that since the letter dated 04.04.2005 was not received by the petitioner, the petitioner sent another letter dated 17.10.2006, requesting the Government to furnish copy of the letter dated 04.04.2005 to enable them to make further representation in the matter.

3. On hearing such statement from the counsel, we directed the petitioner to file an affidavit to this effect. Pursuant to the same, the petitioner has filed an affidavit dated 06.11.2006, mentioning all these details. The fact that the petitioner had filed an appeal against the order of CMDA dated 17.11.2004 and that the said appeal is still pending with the Government, Housing Department are available in para 6 of the affidavit dated 06.11.2006. In view of the same, we are of the view that ends of justice would be met by directing the Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai 9, to dispose of the appeal dated 15.12.2004 said to have been filed by the petitioner on merits in accordance with law with in a period of eight weeks from the date of receipt of a copy of this order. In view of the fact that the petitioner secured an order of stay of the impugned proceedings as early as on 05.05.2004, and the same is in force, we clarify that the said order shall continue till final decision being taken by the Government as directed above.

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With the above direction the writ petition is disposed of. No costs. Consequently, connected WPMP., is closed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
   Housing and Urban Development Department,
   Fort St. George,Chennai 9.

2. The Member Secretary
   Chennai Metropolitan Development Authority,
   Thalamuthu Natarajan Building,
   Egmore, Chennai-600 008.

3. The Commissioner,
   Corporation of Chennai,
   Rippon Buildings,
   Chennai 600 003.

+ 1 cc to Mr. J. Ravindran, Advocate SR No. 53359

+ 1 cc to Mr. A. Mohamed Gouse, Advocate SR No. 53165

+ 1 cc to Mr. S. J. Jagadev, Advocate SR No. 52881

Order in
WP.No.13272 of 2004

SMV(CO)
SR/24.11.2006

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